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JUN 08 2006

OFFICE OF PETITIONS

In re Application of :
Hajime Homma : DECISION ON PETITION
Application No. 09/992,052 :
Filed: November 23, 2001 :
Atty Docket No. 041514-5368 :

This is a decision on the "REQUEST TO RESCIND HOLDING OF ABANDONMENT" filed February 28, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed June 7, 2005. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). An amendment was received on September 7, 2005, but was not considered by the examiner to place the application in condition for allowance (Advisory Action mailed September 26, 2005). No further reply received and no extension of time obtained, the above-identified application became abandoned on September 8, 2005. A Notice of Abandonment was mailed on February 22, 2006.

In response, applicant timely filed the instant petition. Petitioner states that a response to the final Office action (including a Request for Continued Examination (RCE), and petition for extension of time) was received in the Office on November 7, 2005. In support thereof, petitioner submitted a copy of their response and a date-stamped acknowledgment receipt.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as *prima facie* evidence of

receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Petitioner's evidence is persuasive that the response including an RCE¹ was filed on November 7, 2005. Petitioner is advised that the instance evidence is not as persuasive as a postcard, which solely lists the items being filed. In deciding this petition, reliance is had on petitioner's duty of candor and good faith to the Office that the receipt is a true copy of the acknowledgment receipt as presented to the Office.

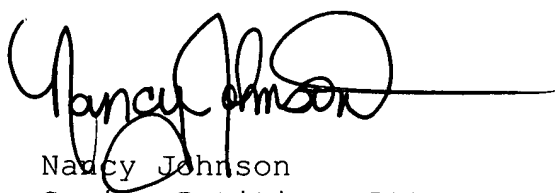
Accordingly, the Notice of Abandonment mailed February 22, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2674 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and to process the RCE and preliminary amendment filed November 7, 2005 (and resubmitted on petition filed February 28, 2006).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a long horizontal line extending to the right.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

¹ The fee for extension of time for response within the second month was timely processed.